

**CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES**

October 15, 2020

Because the meeting was originally advertised as electronic and later changed to in-person, it was also shown on Facebook, with the public given a chance to view the meeting and call in with any comments.

Chairperson T. Michalski called the meeting to order at 4:05 p.m. and roll was taken.

MEMBERS PRESENT: J. Montgomery-Keast, L. Spataro, B. Larson, S. Gawron, B. Mazade, E. Hood, T. Michalski

MEMBERS ABSENT: F. Peterson; J. Doyle, excused

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: Rev. Jane Mountain, Harbor of Grace Lutheran Church; N. Douglas, 904 Amity; C. Roberts, Fremont MI; G. Adams, 2112 Sampson

APPROVAL OF MINUTES

A motion to approve the Minutes of the regular Planning Commission meeting of September 10, 2020 was made by J. Montgomery-Keast, supported by L. Spataro and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2020-17: Request for a Special Use Permit to operate a food pantry at 1132 W Southern Ave, by Harbor of Grace. M. Franzak presented the staff report. The property is zoned R-1, Low Density Single Family Residential. Harbor of Grace Church operates out of the building. They have occasionally operated a small food pantry a few times a month, but now would like to increase the size of the pantry and hours of operation. Churches are allowed in R-1 zones under a Special Use Permit and any additional uses should be included in the initial approval. Staff determined that while a food pantry is beneficial to the community, additional traffic into residential neighborhoods should include a notice to the public. Notice was mailed to everyone within 300 feet of the property. Although located within a residential neighborhood, the pantry building is isolated from most of the homes nearby. Easy access to the parking lot should limit traffic concerns. Staff had received no comments at the time of this writing, and recommends approval of the request.

B. Larson asked if there was a traffic routing plan. M. Franzak stated that visitors would be encouraged not to use the alley. L. Spataro asked Rev. Mountain to give a brief overview of their plans. Rev. Mountain stated that they planned to open the food pantry two days a week – one day in the morning hours and the other in the evening. They had 135 – 150 people that they formerly served, and she expected that they would get some additional people, since Loaves & Fishes had closed. She also stated that they would utilize the Loaves & Fishes model and encourage people not to come more than once per month. T. Michalski asked if there were any restrictions on who could utilize the pantry. Rev. Mountain stated that anyone in need would be welcome.

There were no public comments in person or via Facebook. A motion to close the public hearing was

made by B. Larson, supported by L. Spataro and unanimously approved.

A motion that the Special Land Use Permit to operate a food pantry at 1132 W Southern Avenue by Harbor of Grace Lutheran Church be approved, was made by J. Montgomery-Keast, supported by B. Larson and unanimously approved, with J. Montgomery-Keast, L. Spataro, B. Larson, S. Gawron, B. Mazade, E. Hood, and T. Michalski voting aye.

Hearing, Case 2020-18: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow a microbusiness and designated consumption establishment at 420 S Harvey St, by Michigan Canna House, LLC. M. Franzak presented the staff report. This property is zoned B-2, Convenience & Comparison Business District. The applicant is requesting to expand the marihuana overlay district to allow microbusiness and consumption license types at this address. The applicant is not the owner of the property. Notice was sent to properties within 300 feet of the property as required; at the time of this writing staff had not received any comments. Staff encouraged the Planning Commission to consider the proposed marihuana facilities overlay district amendment (see New Business) that would allow microbusinesses in the same districts that caregivers are allowed, with a Special Use Permit.

C. Roberts had prepared a video presentation about his company, which he presented to the board. He stated that they had been approved as a social-equity company by the state and as such, received a discount on marihuana application fees as part of a restorative justice program. He explained their plans for the property and buildings, such as a provisioning center, commercial kitchen, consumption area, and event space. He also discussed the various types of marihuana licenses available and stated that a microbusiness and an event organizer license would fit their needs. T. Michalski asked how close their outdoor area was to the adjacent apartments, as he was concerned with possible odors from the business. C. Roberts stated that the apartments sat on the other side of a parking lot. He had researched how many plants they were allowed considering their proximity to the apartments, and they planned to be well under the allowed amount. They would also have a ventilation system in the building. L. Spataro reiterated his position that these types of facilities should be regulated like alcohol establishments so there were specific rules in place governing the issues being discussed. T. Michalski stated that the city should consider the restorative justice aspect; B. Larson concurred. M. Franzak stated that fees were governed under the City Code of Ordinances, not the zoning ordinance.

There were no public comments in person or via Facebook. A motion to close the public hearing was made by B. Larson, supported by J. Montgomery-Keast and unanimously approved.

A motion that request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for microbusinesses and designated consumption establishments at 420 S Harvey St, by Michigan Canna House, LLC be approved, was made by B. Larson and supported by E. Hood, with discussion continuing on the motion.

B. Mazade stated that he was not in favor of a system where staff or board members were deciding which businesses were or were not chosen to be in a marihuana overlay zone. He also felt that this request was premature, considering that there was a proposal in process that would have a direct effect on these businesses. S. Gawron stated that the City Commission was supportive of staff's recent request to issue marihuana licenses city-wide with a Special Use Permit, and he preferred to wait for the new procedures to be in place for the sake of consistency and continuity. J. Montgomery-Keast concurred that this request was premature, in light of the pending change in the ordinance. E. Hood stated that he liked what the applicants were trying to do with this property, but also preferred to wait until the new process was in place. L. Spataro suggested that, if board members preferred to wait until new procedures were in place, the board could table this case until that time.

A motion to table this case until staff's proposed marihuana ordinance amendments were in place was

made by J. Montgomery-Keast, supported by B. Larson and approved, with J. Montgomery-Keast, L. Spataro, B. Larson, S. Gawron, B. Mazade, E. Hood voting aye, and T. Michalski voting nay. M. Franzak stated that next month's meeting would focus on the ordinance amendments.

Hearing, Case 2020-19: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow a microbusiness at 1700 Lakeshore Dr, by Stag Properties, LLC. M. Franzak presented the staff report. The property is zoned B-2, Convenience & Comparison Business District. The applicant is requesting to expand the marihuana overlay district to allow a microbusiness license type at this location. The applicant is not the owner of the property. Notice was sent to properties within 300 feet; at the time of this writing staff had not received any comments. Staff encouraged the Planning Commission to consider the proposed marihuana facilities overlay district amendment (see New Business) that would allow microbusinesses in the same districts that caregivers are allowed, with a Special Use Permit.

M. Franzak stated that the applicant had been running a caregiver business at this location since about 2008 and had assisted staff in writing the original marihuana ordinance. G. Adams was the business owner, and stated that he had been one of the leaders in helping create policy since the beginning. He stated that he was not requesting preferential treatment for himself, but was speaking on behalf of all caregivers in Muskegon who paid \$1,100 a year for their licenses. He stated that local caregivers who already had an established business should have the opportunity to obtain a microbusiness license. Many of them had not been able to benefit from the industry due to the high costs of licensing and property in the overlay districts.

There were no public comments in person or via Facebook. A motion to close the public hearing was made by L. Spataro, supported by J. Montgomery-Keast and unanimously approved.

A motion that request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for microbusinesses at 1700 Lakeshore Dr, by Stag Properties, LLC be approved, was made by L. Spataro and supported by B. Larson, with discussion continuing on the motion.

S. Gawron stated that the marihuana industry was fluid and Muskegon was one of the first communities in the state to allow it. He was no longer comfortable with the original process of designating individual properties or areas as marihuana overlay districts and supported staff's proposal to revise the way licenses were being issued. He stated that he was in favor of amending the ordinance to make it easier for caregivers who had been involved since the beginning to become involved in the recreational industry.

A motion to table this case until staff's proposed marihuana ordinance amendments were in place was made by B. Larson, supported by J. Montgomery-Keast and approved, with J. Montgomery-Keast, L. Spataro, B. Larson, S. Gawron, B. Mazade, and T. Michalski voting aye. Commissioner Hood had stepped away and did not vote.

NEW BUSINESS

Marihuana district expansion proposal. M. Franzak briefed Planning Commissioners on the work he had been doing on the marihuana ordinance. Some City Commissioners had requested that staff research ways to allow local caregivers the opportunity to get into the recreational industry. A total of 18 Caregivers currently operated in different business and industrial corridors throughout the City. Since Caregivers were allowed to co-locate, some buildings hosted up to a few hundred plants which sometimes caused odor nuisance issues when located near residential areas. This, along with concerns from citizens, made it difficult to allow many marihuana license types outside of the current overlay zones. However, microbusinesses allowed for the cultivation (up to 150 plants only), processing and

sale of marihuana out of a single building. This license type was very affordable (\$8,000 compared to \$25,000 for retailer), making it more feasible for smaller-scale, local entrepreneurs to get into the industry. The 150-plant restriction could reduce odor nuisances and appeared to be the license type that most caregivers were seeking. Although there were two local marihuana entrepreneurs that had petitioned for two different properties to be rezoned to allow microbusinesses, staff encouraged the Commission to instead consider creating a new microbusiness ordinance that would allow all caregivers the opportunity to participate throughout the City. Staff had also recently received other requests to allow microbusinesses in business corridors. A major issue with getting local entrepreneurs into the recreational industry was the fact that many did not own a building in an approved overlay district. The overlay districts had led to dramatic increases in property values, essentially pricing out many locals. Staffs proposal should eliminate this issue.

Staff proposes to allow microbusinesses in the same zoning districts that caregivers are allowed (B-2, B-4, MC, I-1, I-2.) as long as they obtain a Special Land Use Permit from the Planning Commission. Special Use Permits are parcel- and applicant-specific, which should eliminate the land speculation problem. If an applicant is approved at a location, that applicant is the only one approved for the use at that property; any new applicant at that location would require their own Special Land Use Permit. Allowing these permits throughout the City would eliminate the need to be in a certain location, eliminating the land speculation. It would also restrict the building owner from obtaining the necessary zoning approval, then selling the building to the highest bidder rather than the applicant they had originally been working with.

M. Franzak stated that he would finalize the new ordinance language and bring it to the Planning Commission for approval at a future meeting.

Resolution Ratifying and Confirming Prior Planning Commission Approvals. M. Franzak presented board members with a resolution that reaffirmed Planning Commission actions taken at meetings that were conducted electronically due to Covid-19 restrictions that had been in place. The resolution had been suggested by the City Attorney's office, since the Governor's orders had been vacated by the Michigan Supreme Court. A motion to approve the "Resolution Ratifying and Confirming Prior Planning Commission Approvals" was made by S. Gawron, supported by J. Montgomery-Keast and unanimously approved, with J. Montgomery-Keast, L. Spataro, B. Larson, S. Gawron, B. Mazade, E. Hood, and T. Michalski voting aye.

OLD BUSINESS

None

There being no further business, the meeting was adjourned at 5:45 PM.

DR